

AO 106A (08/18) Application for a Warrant by Telephone or Other Reliable Electronic Means

UNITED STATES DISTRICT COURT

for the
District of New Mexico

FILED
United States District Court
Albuquerque, New Mexico
Mitchell R. Elfers
Clerk of Court

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)
Beclahbito, New Mexico 87420
GPS Coordinates 36.876900, -109.029652

Case No. **23 MR 1001****APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS**

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A

located in the _____ District of _____ New Mexico _____, there is now concealed (identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☒ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. § 1153	Offenses committed in Indian Country
18 U.S.C. § 113(a)(3)	Assault with a Dangerous Weapon
18 U.S.C. § 81	Attempted arson in Indian Country

The application is based on these facts:

See attached affidavit, incorporated herein by reference.

- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

Lorraine Hardy, Special Agent

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
 Telephonically Sworn and Electronically Signed (specify reliable electronic means).

Date: 5/12/2023

Judge's signature

City and state: Farmington, New Mexico

B. Paul Briones, United States Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

IN THE MATTER OF THE SEARCH OF:
Beclahbito, New Mexico 87420
GPS Coordinates 36.876900, -109.029652

Case No. _____

AFFIDAVIT

I, Lorraine Hardy, being duly sworn, depose and state as follows:

INTRODUCTION

1. I am currently serving as an FBI Special Agent assigned to the FBI, Albuquerque Division, Farmington Resident Agency, where I primarily investigate crimes that occur in Indian Country to include homicide, aggravated assault, child sexual assault, kidnapping and rape. I have been with the FBI for approximately 4 years. I have received on the job training from other experienced agents, detectives, Indian Country criminal investigators, and tribal police officers. My investigative training and experience includes, but is not limited to, processing crime scenes, conducting surveillance, interviewing subjects, targets, and witnesses; writing affidavits for and executing search and arrest warrants; examining cellular telephones; managing confidential human sources and cooperating witnesses/defendants; serving subpoenas; collecting and reviewing evidence; and analyzing public records.

2. The information set forth in this affidavit has been derived from an investigation conducted by the Farmington Resident Agency of the FBI, the Navajo Nation Department of Criminal Investigations (NNDCI), and the Navajo Police Department (NPD). During my investigation, I have developed information I believe to be reliable from the following sources:

- a. Information provided by the FBI, NNDICI, NPD, New Mexico Department of Corrections (DOC), New Mexico Motor Vehicle Division, and other law enforcement officials;
 - b. Information provided by witnesses; and
 - c. Records from the FBI National Crime Information Center (NCIC), Navajo Tribal Courts, New Mexico Courts, and the New Mexico Motor Vehicle Division
3. Because this affidavit is being submitted for the limited purpose of securing a search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth facts that I believe are sufficient to establish probable cause for the requested warrant.

RELEVANT STATUTES

4. This investigation concerns alleged violations of the following:
- a. Title 18 U.S.C. § 1153 – Offenses committed in Indian; and
 - b. Title 18 U.S.C. § 113(a)(3) – Assault with a Dangerous Weapon.
 - c. Title 18 U.S.C. § 81- Attempted Arson

PROBABLE CAUSE

6. On May 1, 2023, Federal Bureau of Investigation (FBI) Farmington, Resident Agency, was notified by NNDICI of an assault that occurred in Beclahbito, New Mexico. DELMORE RUBEN LEE (hereinafter referred to as DELMORE), year of birth 1987, and DELBERT LEE (hereinafter referred to as DELBERT), year of birth 1985, drove a grey four-door car with a broken out rear passenger window covered in black plastic to John Doe 1's, year of birth 1984, residence. DELMORE exited the driver's side of the car and fired a 9 mm handgun three times at John Doe 1 while John Doe 1 was outside in his

yard working on his mother's Chevrolet S10 pickup. The windshield and side windows shattered on the S10 pickup. John Doe 1 was afraid he would get shot and ran inside his residence. DELMORE and DELBERT followed John Doe 1 to the back door of the residence. DELMORE continued to fire the 9 mm handgun several more times at the residence and the back door of the residence. DELMORE and DELBERT attempted to push the back door open and enter the residence. John Doe 1 and his brother John Doe 2, year of birth 1991, pushed the door shut and forced DELMORE and DELBERT back. John Doe 1 and John Doe 2 recognized DELBERT and DELMORE because they are related to them. DELBERT and DELMORE live approximately three miles down the road at the SUBJECT PREMISES. The SUBJECT PREMISES is believed to belong to DELMORE and DELBERT's father. DELBERT and DELMORE got back into the grey four door car and sped off in the direction the SUBJECT PREMISES.

7. John Doe 1's mother, L.A., year of birth 1954, John Doe 1's sister, K.B., year of birth 1999 and K.B.'s two children, E.B., year of birth 2020, and L.Y., year of birth 2016, were also inside the residence when DELMORE fired the 9 mm handgun towards the residence.

8. According to statements provided by L.A. and K.B. to FBI Agents, at approximately 8:00 AM on April 30, 2023, they saw a grey four-door car pull up to their residence and heard yelling outside. K.B. looked out the window and saw DELMORE exit the driver side of the vehicle. DELMORE started shooting a handgun towards John Doe 1. John Doe 1 ran inside the residence and K.B. heard shooting at the back door. K.B. grabbed E.B. and L.Y. and laid down on the living room floor. K.B. was afraid for her children and yelled out the window towards DELMORE to stop shooting, her children were inside. John Doe 2 pushed L.A. behind a wall to protect her from the bullets. L.A. stated DELMORE

attempted to light her Chevrolet S10 pickup truck on fire but John Doe 2 stopped him. L.A. called police.

9. NPD officers arrived on scene at approximately 8:35 AM. NPD officers observed a Chevrolet S10 pickup truck with damage to the driver's side window and windshield. The S10 pickup had a clear fluid in the bed along with several books of matches. Four 9mm shell casings were observed and picked up for evidence. NPD officers took photographs of the crime scene to include the broken windows in the S10 pickup, bullet holes in the back door, and 9mm shell casings observed near the residence.

10. The incident under investigation occurred within the exterior boundaries of the Navajo Nation Indian Reservation. DELBERT and DELMORE are enrolled members of the Navajo Nation. John Doe 1 and John Doe 2 are enrolled members of the Navajo Nation.

11. In my training and experience, individuals who commit crimes often attempt to conceal evidence of their crime. Individuals who utilize weapons such as a firearms to commit criminal offenses often conceal evidence of the firearm possession in their residences, or residences of relatives, friends, or associates, and areas surrounding their residences, to include, garages, carports, hogans, outbuildings, inoperable vehicles parked on or near their property, and their vehicles.

12. Further, individuals often attempt to conceal evidence of the crime of arson, including items that may have been used to commit or attempt to commit arson, including accelerant, gasoline, matches, or lighters. Those items could be concealed in their residences, or residences of relatives, friends, or associates, and areas surrounding their residences, to include, garages, carports, hogans, outbuildings, inoperable vehicles parked on or near their property, and their vehicles.

THE SUBJECT PREMISES

13. The SUBJECT PREMISES to be searched is described in the following paragraphs and in Attachment A.

14. THE SUBJECT PREMISES is located in Beclahbito, New Mexico 87420, GPS coordinates 36.876900, -109.029652. The residence located on the SUBJECT PREMISES can be described as a grey single-wide trailer with a dirt driveway. A tan colored Hogan sits behind the residence and a car port next to the residence. There are several inoperable vehicles parked nearby the residence, as well as their grey four-door car with a broken rear window. The broken window is covered in black plastic. A wire fence surrounds the residence and the immediate outbuildings.

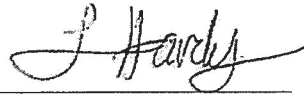
15. The SUBJECT PREMISES is located within the exterior boundaries of the Navajo Nation.

CONCLUSION

16. Based on the facts set forth in this affidavit, there is probable cause to believe there was a violation of 18 U.S.C. § 1153 - offenses committed in Indian Country; and 18 U.S.C. § 113(a)(3), assault with a dangerous weapon, with intent to do bodily harm, and 18 U.S.C. § 81, attempted arson, committed by DELMORE and DELBERT, and that evidence of such crimes may be found at the SUBJECT PREMISES. Therefore, I submit that this affidavit supports probable cause for warrants to search the premises described in Attachment A and seize the items described in Attachment B.

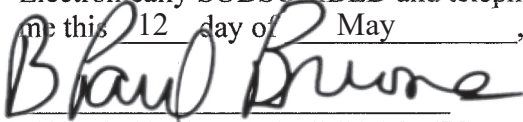
17. Supervisory Assistant United States Attorney Elisa Dimas has reviewed this application.

18. I swear that this information is true and correct to the best of my knowledge and belief.



Lorraine Hardy, Special Agent
Federal Bureau of Investigation

Electronically SUBSCRIBED and telephonically SWORN to
me this 12 day of May, 2023.

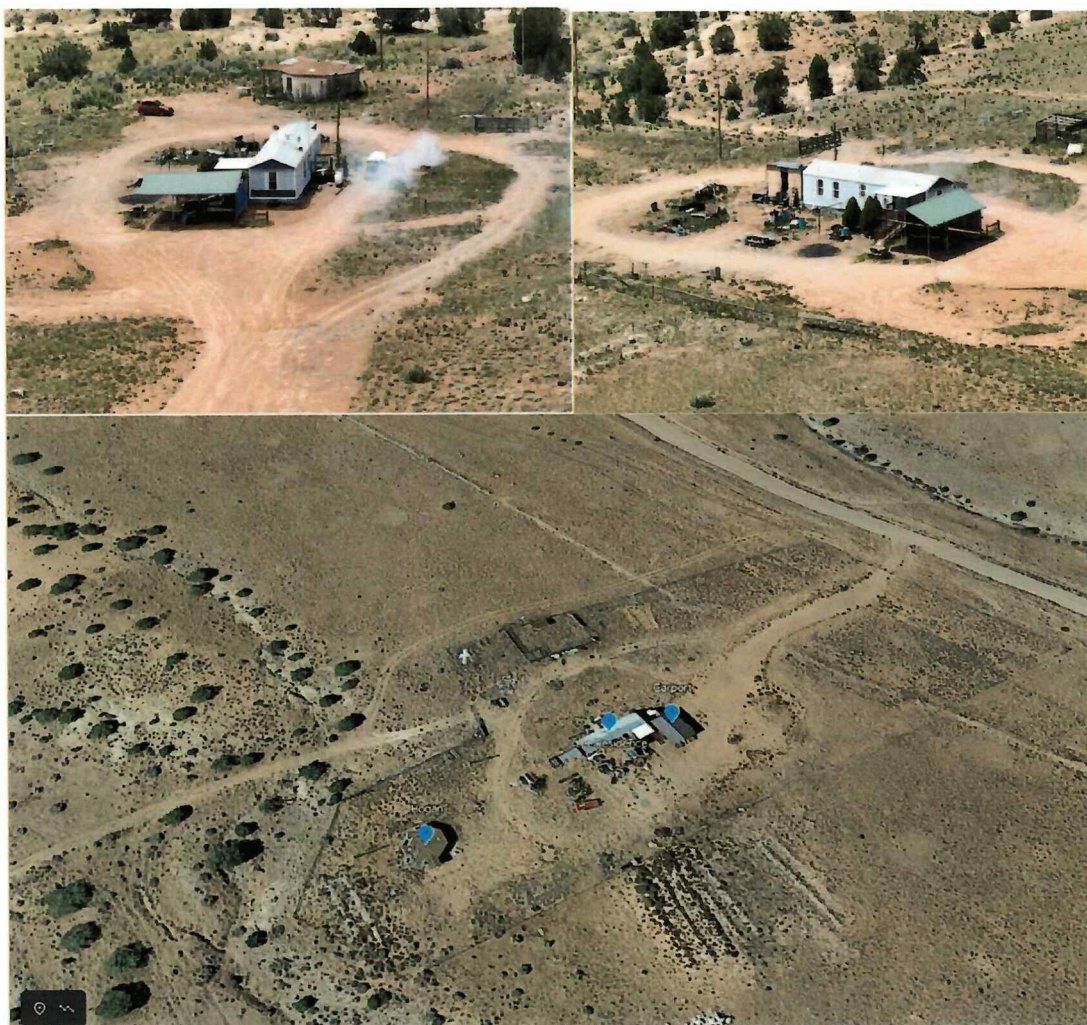


HONORABLE B. PAUL BRIONES
United States Magistrate Judge

ATTACHMENT A
PREMESIS TO BE SEARCHED

The property to be searched is described as follows:

THE SUBJECT PREMISES is located in Beclahbito, New Mexico 87420, GPS coordinates 36.876900, -109.029652. The Subject Premises can be described a grey single-wide trailer with a dirt driveway. A tan colored Hogan sits behind the residence and a car port next to the residence. There were several inoperable vehicles parked nearby the residence, as well as their grey four door car with a broken rear window. The broken window is covered in black plastic. A wire fence surrounded the residence and the immediate outbuildings.



ATTACHMENT B
PROPERTY TO BE SEIZED

The following materials, which constitute evidence or property designed or intended to use in the commission of a criminal offense, namely violations of 18 U.S.C. § 1153, and 18 U.S.C. § 113(a)(3), assault with a dangerous weapon in Indian Country, and 18 U.S.C. § 81, attempted arson in Indian Country, including:

1. 9mm handgun, described as a semi-automatic, black and/or silver in color.
2. 9mm ammunition and/or spent casings.
3. Items that could be used to start a fire including accelerant, gasoline and gasoline cannisters, matches, and lighters.
4. Photos of interior and exterior of the vehicle identified by the witnesses that was driving by the suspects during the assault.